

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

CHARLES YOW, SR.,)	Civ. 04-5089-KES
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
JOHN STEELE, ROBERT FAST)	
HORSE-GREY EAGLE, and CHERYL)	
VALANDRA,)	
)	
Defendants.)	

Plaintiff filed a complaint in the above-entitled action on September 27, 2004. Pursuant to Federal Rule of Civil Procedure 4(m), plaintiff has 120 days to serve the summons and complaint on defendants. Plaintiff has not filed with the Clerk of Courts verification of service on defendants.¹ Rule 4(m) states in pertinent part:

If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m). Over 120 days have lapsed since the filing of this complaint. Plaintiff is on notice of this court's intention to dismiss this action

¹Service by mail is not sufficient service under Rule 4, unless the defendants sign a waiver of service. Personal service can be accomplished pursuant to the laws of South Dakota. For example, the summons and complaint can be served by the U.S. Marshals Service on each defendant.

without prejudice if service of the summons and complaint is not made upon the defendants. Accordingly, it is hereby

ORDERED that plaintiff shall make service of the summons and the complaint upon defendants on or before **June 13, 2005**, or this matter shall be dismissed without prejudice pursuant to Rule 4(m), unless plaintiff can show good cause for his failure to serve defendants.

Dated May 11, 2005.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE